



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2016-0002; Notice 2]

Cooper Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Cooper Tire & Rubber Company (Cooper), has determined that certain Cooper tires do not fully comply with paragraph S5.5.1(b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New pneumatic radial tires for light vehicles*. Cooper filed a report dated January 8, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Cooper then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety.

ADDRESSES: For further information on this decision contact Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5310, facsimile (202) 366-5930.

SUPPLEMENTARY INFORMATION:

I. Overview: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Cooper submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on March 25, 2016 in the Federal Register (81 FR 16268). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2016-0002."

II. Tires Involved: Affected are approximately 338 Cooper Discoverer A/T3 size 265/70R18 Standard Load Tubeless Radial tires that were manufactured between September 27, 2015 and October 3, 2015.

III. Noncompliance: Cooper explains that the DOT serial week and year appears upside down and backwards in the tire identification number (TIN) molded into the outboard sidewalls of the subject tires and those tires therefore do not meet the requirements specified in paragraph S5.5.1 of FMVSS No. 139.

IV. Rule Text: Paragraph S5.5.1 of FMVSS No. 139 requires in pertinent part:

S5.5.1 Tire Identification Number.

...

(b) *Tires manufactured on or after September 1, 2009.* Each tire must be labeled with the tire identification number required by 49 CFR part 574 on the intended outboard sidewall of the tire. Except for retreaded tires, either the tire identification number or a partial tire identification number, containing all characters in the tire identification number, except for the date code and, at the discretion of the manufacturer, any optional code, must be labeled on the other sidewall of the tire. Except for retreaded tires, if a tire does not have an intended outboard sidewall, the tire must be labeled with the tire identification number required by 49 CFR part 574 on one sidewall and with either the tire identification number or a partial tire identification number, containing all characters in the tire identification number except for the date code and, at the discretion of the manufacturer, any optional code, on the other side wall.

V. Summary of Cooper's Petition: Cooper believes that this noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Cooper submitted the following information and analysis of the subject noncompliance:

1. Cooper cited paragraph S5.5.1(b) of FMVSS No. 139, which requires tires manufactured on or after September 1, 2009 to be labeled with the TIN required by 49 CFR part 574 on the intended outboard sidewall of the tire.
2. Cooper also noted that 49 CFR 574.5 states that "[e]ach tire manufacturer shall conspicuously label on one sidewall of each tire it manufactures . . . a tire identification number containing the information set

forth in paragraphs (a) through (d) of this section." The company further noted that 49 CFR 574.5(d) specifies that "[t]he fourth grouping, consisting of four numerical symbols, must identify the week and year of manufacture," with the first two symbols identifying the week and the last two identifying the year.

3. Cooper stated that the subject tires, on the outboard side only, were molded with an upside down and backwards DOT serial week and year. The serial number stamping should read: "DOT UPH4 1A6 3915." The outboard side, which includes the date code, was molded with the date code information oriented incorrectly upside down and backwards, which resulted in the characters being out of proper sequence.
4. Cooper explained that the existence of the stamping error was determined by visual examination of a subject tire on October 21, 2015 by warehouse personnel in Grand Prairie, TX. Upon further investigation, it was determined that only tires cured in one press location (E10L) during one production week (3915) were affected. Tires with the same SKU code were also curing in another press (Z11L), but these tires were stamped correctly. Cooper stated that sorting of its internal inventories revealed that for curing press E10L, during DOT serial week 3915, there was

a total net cure of 518 tires, of which 180 tires have been accounted for in its warehouse. There were 338 tires distributed. Cooper made the final determination that a noncompliance exists as to those 338 tires on January 6, 2015.

5. Cooper states that the 338 subject tires do meet and/or exceed all performance requirements and all other labeling and marking requirements of FMVSS No. 139.

Furthermore, Cooper is not aware of any crashes, injuries, customer complaints, or field reports associated with the subject tires.

Cooper has informed NHTSA that the subject tires located in its inventory count reconciliation have been returned to the company's Findlay, OH plant, where they will be corrected prior to being released for sale.

In summation, Cooper believes that the described noncompliance is inconsequential to motor vehicle safety, and that its petition, to exempt Cooper from providing recall notification of the noncompliance, as required by 49 U.S.C. 30118, and remedying the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA'S DECISION:

NHTSA'S Analysis: The agency believes that in the case of a tire labeling noncompliance, one measure of its inconsequentiality to

motor vehicle safety is whether the mislabeling would affect the manufacturer's or consumer's ability to identify the mislabeled tires properly, should the tires be recalled for performance related noncompliance. In this case, the nature of the labeling error does not prevent the correct identification of the affected tires. 49 CFR 574.5 requires the date code portion of the tire identification number to be placed in the last or correct position. In Cooper's case it is in the right-most position, however, the manufacturer date code is upside down. Because the label is located on the tire sidewall, it is not likely to be misidentified. A reader will be able to read the date code, by spinning the tire, and therefore inverting the date code will allow it to easily be read.

NHTSA'S Decision: In consideration of the foregoing, NHTSA finds that Cooper has met its burden of persuasion that the subject FMVSS No. 139 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, Cooper's petition is hereby granted and Cooper is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections

30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject tires that Cooper no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Cooper notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe,

Director,

Office of Vehicle Safety Compliance.

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